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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/808,875

03/15/2001

Christopher J. Edge

10275US01 (EKC 90082)

5572

1333 7590 09/15/2006

PATENT LEGAL STAFF  
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ROCHESTER, NY 14650-2201

EXAMINER
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HARRISON, CHANTE E

ART UNIT	PAPER NUMBER
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2628

DATE MAILED: 09/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/808,875

Applicant(s)

EDGE, CHRISTOPHER J.

Examiner

Chante Harrison

Art Unit

2628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15,30,37,43 and 44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 44 is/are allowed.
- 6) ☒ Claim(s) 1-15,30,37 and 43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. This action is responsive to communications: Amendment filed on 6/30/06.
2. Claims 1-15, 30, 37 and 43-44 are pending in the case. Claims 1, 9, 30, 37, 43 and 45 are independent claims. Claims 1, 9, 30, 37 and 43 have been amended. Claim 45 is canceled.

***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-15, 30, 37 and 43 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1 to 15, 30, 37 and 43 do not include claim language such as “rendering substantially visually equivalent images” which presents a practical application by **physical transformation** of an object to a different state or production of a useful, concrete and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101. Claim 30 is non-statutory as it recites “ a computer readable medium comprising... a data structure”. Claim 30 represents an abstract idea as it fails to claim a computer readable medium encoded with a data structure or program. Therefore, no functional relationship is realized. The data structure of claim 30 is nonfunctional descriptive material as it is an arrangement or compilation of facts or data and does not define elements having a relationship.

***Allowable Subject Matter***

2. Claim 44 is allowed.

***Response to Arguments***

3. Applicant's arguments filed 6/30/06 have been fully considered but they are not persuasive.

Applicant argues the present claims present a practical application.

In response, the Applicant's claims fail to recite language that identifies a physical transformation or produces a tangible result; and in with regards to claim 30, the claim additionally does not present a functional relationship of claimed elements. Thus, Examiner maintains the 35 U.S.C. 101 rejection of the claims as they fail to recite a practical application by transformation or produce a tangible result.

Applicant argues claims 37 and 43 identify a physical structure and therefore do not represent an abstract idea.

In response, in consideration of the Applicant's arguments regarding claims 37 and 43, the Examiner withdraws the previous rejection on the basis of an abstract idea.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chante Harrison whose telephone number is 571-272-7659. The examiner can normally be reached on Monday, Tuesday and Wednesday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung can be reached on 571-272-7794. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Chante Harrison  
Examiner  
Art Unit 2628

Ch  
September 6, 2006

